

REMARKS

The application has been amended to place it in condition for allowance at the time of the next Official Action.

Claims 1, 2, 8-11, 13, 16 and 20 were previously pending in the application. New claims 21-28 are added. Therefore, claims 1, 2, 8-11, 13, 16 and 20-28 are presented for consideration.

Claims 1, 2, 8-11, 13, 16 and 20 were rejected under 35 USC 103(a) as unpatentable over ECKHOFF 5,669,914 in view of REHDER 4,865,606. That rejection is respectfully traversed.

The Official Action recognizes that ECKHOFF fails to disclose sliding means that comprise juxtaposed roller bearings. REHDER is offered for this feature with the Official Action concluding that it would have been obvious to modify the plate of ECKHOFF in order to allow for pure rotational movement of the knee and prevent lifting.

However, even if one of ordinary skill in the art were to consider the proposed combination of references in the first instance, the resultant combination would render ECKHOFF unsatisfactory for its intended purpose.

First, the devices of the references perform completely different functions in a completely different manner.

The device of ECKHOFF is an alignment device that temporarily aligns the tibia with the femur of a patient during

knee surgery so that a prosthetic knee component can be placed into the patient.

By contrast, the device of REHDER relates to the prosthetic knee component itself, a device that has already been placed into the patient and is to remain in the patient. Thus, contrary to the position set forth in the Official Action, any advantage based on rotational movement and lifting is due to the configuration of the implant (of REHDER) itself and are not relevant to the procedure for inserting the implant. Therefore, the motivation offered in the Official Action does not possess a rational underpinning to support the legal conclusion of obviousness.

Moreover, it also does not appear possible to combine the references in the manner suggested without rendering ECKHOFF unsatisfactory for its intended purpose.

ECKHOFF discloses a femoral leaf 40 including a femoral ledge 70 that extends at right angles to the leaf 40 (see figure 1 and column 8, lines 13-17). As disclosed on column 9, lines 18-22, the ledge 70 provides a surface for the femur to rest against. In view of this, the femur of ECKHOFF does not rotate and thus, any rotation of the femur would render ECKHOFF unsatisfactory for its intended purpose of keeping the femur against the ledge.

The non-rotation aspect of ECKHOFF is further evidenced from column 9, lines 14-17, which disclose anti-rotation pegs 62

to prevent rotation of the tibial leaves 60 with respect to the femoral leaf 40.

In view of the above, it is apparent that even if one were to consider the proposed combination of references in the first instance based on the disparate devices, it would not have been obvious to one of ordinary skill in the art to make the proposed combination, because doing so would render ECKHOFF unsatisfactory for its intended purpose.

Thus, the proposed combination of references does not meet the present claims.

New claims 21-28 correspond to the previous claims and the analysis above also applies to these claims. Further support for the new claims can be found in Figure 1 and page 10, lines 5-28.

In view of the present amendment and the foregoing remarks, therefore, it is believed that this application has been placed in condition for allowance, and reconsideration and allowance are respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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